

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

William M. Fannon et al.

v.

Civil No. 16-cv-141-JD

US Bank, National Association

**REPORT AND RECOMMENDATION**

On April 25, 2017, the parties attended a discovery status conference before the undersigned magistrate judge. At that conference, the parties indicated that they had reached a settlement agreement, and the court issued an order requiring the parties to file an entry of judgment or stipulation of dismissal within sixty (60) days. On June 2, 2017, defendant filed a motion to enforce settlement (doc. no. 60), contending that plaintiffs had refused to abide by the agreed-upon terms. That motion, to which plaintiffs did not respond, was referred to the undersigned for report and recommendation.

Defendant's representations in its motion regarding plaintiffs' statements on the record at the April 25, 2017 discovery status conference are fully consistent with the transcript of that proceeding (doc. no. 55) and the court's own independent observations and recollections. Namely, plaintiffs unequivocally indicated on the record that they had agreed to

the material terms of a settlement with defendant whereby defendant would forbear from evicting plaintiffs for sixty (60) days and would waive any deficiency on the note resulting from the foreclosure sale in exchange for the plaintiffs vacating the premises within that same time period. Thus, the record supports the conclusion that the parties entered into an enforceable settlement agreement as of the date of the discovery status conference. See Poland v. Twomey, 156 N.H. 412, 414 (2007) (noting settlement agreements "are contractual in nature" which to be valid require "offer, acceptance, consideration and a meeting of the minds").

The court accordingly recommends that the district judge grant defendant's motion to enforce settlement largely for the reasons stated in that motion. The court also recommends that the district judge direct plaintiffs to vacate the premises within thirty (30) days of the date of approval of this report and recommendation. Finally, the court recommends that the district judge direct the parties to file an entry of judgment or stipulation of dismissal within forty-five (45) days of the date of approval of this report and recommendation.

Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). The fourteen-day period may be extended

upon motion. Failure to file specific written objections to the report and recommendation within the specified time waives the right to appeal the district court's order. See Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016); Fed. R. Civ. P. 72(b)(2).



Andrea K. Johnstone  
United States Magistrate Judge

October 4, 2017

cc: William M. Fannon, pro se  
Catherine M. Fannon, pro se  
David D. Christensen, Esq.  
Michael R. Stanley, Esq.